



UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.

Issued by the Department of Transportation on May 19, 2004

**NOTICE OF ACTION TAKEN -- DOCKET OST 2004-17906**

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Applicant: ANTONOV DESIGN BUREAU

Date Filed: May 19, 2004

Relief requested: Exemption from 49 U.S.C. section 40109(g) to permit the applicant to operate one, one-way, cargo charter flight from Dallas/Ft. Worth, Texas, to Miami, Florida, during the period May 19-20, 2004, using its AN-124-100 aircraft to transport one Boeing 777 aircraft engine, plus ancillary equipment, on behalf of Rolls Royce and American Airlines. The applicant stated that American Airlines requires delivery of the engine as soon as possible to repair one of its aircraft at Miami, and to return that aircraft to scheduled service; that the cargo is too large for transportation on U.S.-carrier aircraft; and that surface transportation is not feasible because of the large size of the cargo and of the long time period that such mode of transportation would take.

Applicant representative: Sheryl R. Israel, 202-663-8312

DOT analyst: Allen F. Brown, 202-366-2405

Responsive pleadings: Antonov Design Bureau served its application on those U.S. carriers operating large all-cargo aircraft. Each carrier indicated that it did not have aircraft available to conduct the proposed operations and that it had no comment or did not oppose grant of the requested authority to Polet Airlines.

Statutory Standards: Under 49 U.S.C. section 40109(g), we may authorize a foreign air carrier to carry commercial traffic between U.S. points (*i.e.*, cabotage traffic) under limited circumstances. Specifically, we must find that the authority is required in the public interest; that because of an emergency created by unusual circumstances not arising in the normal course of business the traffic cannot be accommodated by U.S. carriers holding certificates under 49 U.S.C. section 41102; that all possible efforts have been made to place the traffic on U.S. carriers; and that the transportation is necessary to avoid unreasonable hardship to the traffic involved (an additional required finding, concerning emergency transportation during labor disputes, was not relevant here).

**DISPOSITION**

Action: Approved

Action date: May 19, 2004

Effective dates of authority granted: May 19, 2004, through May 20, 2004.

Basis for approval: We are granting the request of Antonov Design Bureau to operate its proposed flight from Dallas/Ft. Worth to Miami, through May 20, 2004. We found that its request met all the relevant criteria of 49 U.S.C. section 40109(g) for the grant of an exemption of this type and that the grant was required in the public interest. Specifically, we were persuaded of the need to move the engine promptly in order to meet American Airlines' urgent repair schedule, the fact that the cargo could not be transported by surface transportation because of the long time period such movement would take, the potential negative impact of delivery delay; and the unique, outsized nature of the cargo, constituted an emergency not arising in the normal course of business. Moreover, based on the representations of the U.S. carriers, we concluded that no U.S. carrier had aircraft available which could be used to conduct the operation at issue here. We also found that grant of this authority was necessary to prevent unreasonable hardship to Rolls Royce and American Airlines. Finally, we found that the applicant was qualified to perform its proposed operation.

Except to the extent exempted/waived, this authority is subject to our standard exemption conditions and to the condition that the applicant must comply with an FAA-approved flight routing for the authorized flight.

**Action taken by:**      **Karan K. Bhatia**  
Assistant Secretary  
for Aviation and International Affairs

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